LETTER

TO THE

REAL FREEHOLDERS of SCOTLAND,

UPON THE

BILL for Regulating QUALIFICATIONS.

EDINBURGH:
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BRITISH MUSEUM

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LETTER, &c,

GENTLEMEN,

EVERY one knows that your province in the conſtitution has of late years been invaded, and that a gradual change has crept into the mode of your elections. Formerly the member for each county was choſen by a *poll* of the *real* freeholders legally qualified; and ſuch was the clear intendment of all the election-laws from the beginning. But this right has in effect been taken from you, and, in its place, a certain ariſtocratical form ſubſtituted, by which each man aſſumes to himſelf ſo many voices as he can make *qualifications*; and, even thoſe to whom the law meant to give no voice at all in the elections of counties, do now ſend their delegates to vote for them, who generally outnumber the real freeholders.

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It is true, that, as this mode has not yet been carried to perfection, appearances are ſtill ſo far kept up, that each elector gives only one vote out of his own mouth; but we muſt be very blind not to ſee that it is in ſubſtance the ſame thing, whether a man who can create ten votes upon his eſtate, ſtands upon the roll for ten votes in his own perſon, or places there ten men to vote for him. The former ought certainly to be allowed, when the latter becomes legal.

By making this ſmall variation upon the plan, it will be rendered complete, and much confuſion, delay, wrangling, and perjury, will be avoided. *Confuſion*; becauſe, by the preſent method of creating nominal votes, the rights of eſtates are often thrown into great diſorder. *Delay*; becauſe the enrolling a man for ten or twenty votes at once is much more expeditious than ſettling ten or twenty claims. Of late, our ſederunts have been ſo much lengthened, that it has been a queſtion agitated, and concerning which the law is ſilent, whether a meeting of freeholders may be adjourned. *Wrangling*; for this I appeal to the judges and lawyers, and to the gentlemen of Forfarſhire, who had almoſt ended the conteſt with their ſwords. *Perjury*; I am unwilling to

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ſay much about this ; let every man read the oath, and judge for himſelf. Gentlemen of honour feel it a very unpalateable oath, witneſs what happened at Air and Kirckudbright. It is at leaſt a moſt extraordinary circumſtance attending this oath, that of two men who are exactly in the ſame ſituation, one feels himſelf at liberty to take it, the other not.

If we muſt have an alteration of the conſtitution, let it be done *directly*, and in plain terms, not by fraud and perjury. Let an act be paſſed, ſaying, that every heritor holding of the crown, peer, or commoner, ſhall have as many votes as his man of buſineſs can invent *qualifications* upon his eſtate ; and that he may attend in perſon, or by proxy, to give theſe votes, without being obliged to employ a number of ſubſtitutes. This will at leaſt have the merit of being a fair and open proceeding, and will be ſo far preferable to the diſingenuous and mean devices which have lately been uſed.

At the ſame time, I muſt acknowledge, that it will be a new ſyſtem, not founded on precedent, nor authoriſed by any principle of our conſtitution. The peers of Scotland are not all equal in rank, and in riches ; yet they have an equal voice

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in their elections; and it has never been thought, that a Duke ſhould have more votes than a Marquis, and ſo on, down to a Lord Baron; or that a peer, who has an extenſive territory, ſhould outvote one of ſmaller eſtate. In elections of boroughs, the electors poll equally, though one may be a dignified perſon, and poſſeſſed of conſiderable heritage in the borough; another, undignified, and poſſeſſed of nothing but his right of burgeſs-ſhip.

When the ſmaller Barons were in antient times obliged to attend perſonally in parliament, we do not find that they voted there according to the extent of their poſſeſſions, or in any other manner than *per capita.* Afterwards, when their attendance was diſpenſed with, they were allowed to chuſe their repreſentatives, and each freeholder had one voice, and no more, in the election, whatever his eſtate might be.

In James the Sixth's time, it was thought proper to fix a minimum, below which no perſon ſhould vote; but every freeholder who had a 40 ſhilling land, or more, in free tenantry, was equally qualified. By act 1681, L. 400 of valued rent, and 40 ſhillings of old extent, were put upon the ſame footing; and there the qualification

cation has reſted ever ſince. By theſe ſtatutes, and by every ſubſequent one, it has been uniformly taken for granted, that, except a caſting-voice to the preſes, every freeholder poſſeſſed of the minimum, or above it, ſtood upon an equal footing; and it never was the idea of the legiſlature that there ſhould be different claſſes of freeholders entitled to vote, one claſs ſuperior, another ſubordinate; one man having right to many votes upon his eſtate, another to fewer, and a third to one vote only.

In the 12. of Queen Anne, an oath was deviſed to debar voting upon eſtates held *in truſt*. Nothing is there ſaid about *nominal and fictitious* votes, becauſe they were not then known or practiſed. In the beginning of George Second's reign, ſome attempts were made to create nominal votes; but a check was given to them by the act 7. of that King, ordaining every perſon claiming a vote to ſwear, not only that he did not hold the eſtate in truſt, and had given no back bond, but that his title was not 'nominal or *fictitious*, created 'or reſerved in him, in order to enable him 'to vote, but was a true and real eſtate in him, 'for his own uſe and benefit,' &c. In the 16. of the ſame King, the well known act was paſſed, which, *inter alia*, contains a clauſe declaring, 'That votes had been unduly multiplied by 'ſplitting

'ſplitting and dividing the old extent;' and therefore enacting, that no perſon ſhould be entitled to vote in reſpect of the old extent of his lands, without proving it by a retour, before the 1681. At the period of this act, the operation of dividing *valuations*, in which our practitioners are now ſo expert, appears to have been little known, except in the caſe of real ſales; and, therefore, no notice of it is there taken; and, it ſeems to have been thought, that the proviſo againſt dividing the *extent*, added to the *oath*, was a ſufficient bar againſt all fictitious votes, which were then very ſparingly uſed.

Spotiſwood's book upon the law of elections does not ſay a word about ſplitting valuations. Wight's treatiſe lately publiſhed is full upon the ſubject.

Even ſo far down as 1753, a gentleman having divided his valued rent, and created *three* votes in the county of Caithneſs, which came to be the ſubject of diſcuſſion before the Court of Seſſion, this was conſidered as a novelty; and a lawyer of great experience, then at the bar, ſpeaks of it in one of his papers in the following terms. 'The attempts made by the complainer 'in *this caſe*, are equally competent to be 'made *in any other county* in the kingdom; and,

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'if they are to ſucceed, will bid fair, in a little 'time, to reverſe the plan of the conſtitution.' This prophecy ſeems in a great meaſure to have come to paſs.

The ſyſtem of vote-making has ſince been carried to an amazing pitch, and chiefly at the two laſt elections; in ſo much that, the uſual places of meeting are not now able to contain the numbers of voters; and, in ſome inſtances, they have been obliged to adjourn to the pariſh-church, in order to avoid being ſmothered. Our practitioners have acquired a degree of ſkill and dexterity in this art, which does honour to their abilities. We have had inſtances of diviſions ſo nicely made, that each man has got his L. 400 of valuation, without a fraction in or over; that is, he has got it upon *paper*, for it is not meant that he ſhould have it any where elſe.

The ſeparation of the property from the ſuperiority is an eaſy device; and an ingenious gentleman at the bar lately invented a method to ſave even the expence of renewing charters. The mode is very ſimple; take no infeftment in the fee, and, as ſoon as your liferenter dies, or renounces, you make a new liferent upon your old charter, and ſo on *in infinitum*.

It was with ſome aſtoniſhment I lately read a paper in the Scots magazine, which ſays, That, if the bill paſſes, which is now in agitation, for cutting off wadſett and liferent (i. e. nominal and fictitious) votes, it will be a groſs violation of the antient conſtitution, *by diminiſhing the number of voters*. If the tendency of this bill were to diminiſh the number of *real* voters, I would join moſt heartily with Mr A. B. in condemning it; but I underſtand it to have the direct contrary effect; and I underſtand what he calls a *multiplication* of votes to be in reality a *diminution* of them. It is evident, that every thing which impairs the right of the real freeholders muſt operate preciſely in the ſame way as if their numbers were diminiſhed. The introduction of nominal voters upon the rolls has clearly the former effect; and therefore is equivalent to the latter. It brings in alſo the peers to vote indiſcriminately with the other freeholders, and to over-balance them.

We are told, that the Scots peers have not a ſufficient repreſentation in parliament by the election of their ſixteen, and that we ought to admit them, by themſelves, or their proxies, as *voters* in the county-elections. The next ſtep will be, to admit them as *members*.

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The articles of union are not more againſt the one than the other. But, ſuppoſing we were to receive them as freeholders, and to conſider them as mere commoners, does it follow that we ought to give up our rights to them altogether, by allowing them to vote according to their eſtates, and not *per capita?* As matters are now conducted, a Scots or an Iriſh peer, or a man of great eſtate, (no matter whether peer or commoner,) may, in ſome counties, make the election by the mere operation of his own eſtate. He has nothing more to do than to ſend for his conveyancer, rummage his charter-cheſt, divide his cumulo valuation, and raiſe up a fabric of paper-votes, ſuperior at once to the old eſtabliſhed roll of the county. If the alteration is made, which, upon this plan, it ought to be, of allowing each man to vote in his own name, ſo many times as he has *qualifications*, he will come to the meeting, and tell the clerk *who* is to be the member for the county, or perhaps ſend his agent to do it, as it would be too much trouble for him to attend in perſon upon ſuch an occaſion. We will then be much in the ſame ſtate with the Roman people when Tiberius took the *jus ſuffragiorum* from

from the comitia, and conferred it upon himſelf and the ſenate.

Viewing the matter in this light, I cannot help thinking that great injuſtice has been done to the families of Sutherland and Reay; for the act 16. of his late Majeſty allows the right of voting in the county of Sutherland to the vaſſals of theſe families, owing to the ſupine ignorance of our legiſlators at that period, who imagined that peers could not vote, nor even diſpoſe of their ſuperiorities, for the purpoſe of making votes, and therefore, as a great part of the county of Sutherland was held of the Earl of Sutherland and Lord Reay, the ſtatute has very unjuſtly and fooliſhly enacted, as to that county, 'That where lands are now 'holden by any baron, or other freeholder, im-'mediately of the King or Prince, ſuch baron or 'freeholder ſhall be capable to be elected, and 'ſhall be entitled to vote for thoſe lands; and no 'vaſſal or ſub-vaſſal of the ſaid baron or freehold-'er ſhall have right to vote, or to be elected in 'reſpect thereof; and that, where lands are now 'holden, or ſhall at any time hereafter be holden 'of the King or Prince, by a *peer* or other perſon, 'or body politic, or corporate, *who by law are* '*diſabled* to be a member of the houſe of commons,

'mons, *or to vote in ſuch elections*; in ſuch caſes, 'the proprietor and owner of ſuch lands, and not 'any of his ſuperiors, ſhall be entitled to vote, or 'to be elected, in reſpect of the ſame lands; and 'that *no alienation of the ſuperiority to be made by 'ſuch peer*, or other perſon, or body politic, inca-'pable to elect, or to be elected, *ſhall deprive the 'proprietor and owner of the lands of his right to 'vote* in the elections for the ſaid ſhire, or his ca-'pacity to be elected; nor entitle the purchaſer 'of the ſaid ſuperiority to vote, or to be elected; 'and that the property of lands of the valuation 'aforeſaid, holden in part immediately of the 'King or Prince, and in part of a peer, or other 'perſon, or body politic, incapable to elect, or to 'be elected, ſhall be a ſufficient qualification to 'the proprietor and owner of ſuch lands, and ſhall 'entitle ſuch proprietor to vote, and to be elected 'for the ſaid ſhire.'

Had our law-givers in 1743 been as wiſe as our practitioners are now, they would have ſeen that the Earl of Sutherland and Lord Reay could create as many votes upon their eſtates as the Lords of other counties, and were as well entitled to create them.

My friend A. B. ſeems to think that we are making a prodigious innovation upon the antient

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law of Scotland when we cut off liferents and wadſets, which were allowed by the ſtatute 1681. But, let us conſider how this matter ſtands. When the act 1681 was made, a wadſet of land-property was a common mode of ſecurity in Scotland; being a ſpecies of mortgage, which, in conſideration of a ſum of money advanced, gave a real and ſubſtantial intereſt in land, by enabling the mortgagee to draw the rents during the not redemption; and, when it was of that kind which was known by the name of *a proper wadſet*, the rents belonged to him in lieu of the intereſt *unaccountably*; ſo that a proper wadſet was nearly of the ſame nature with a ſale of the lands, under reverſion. The wadſetter, therefore, being in effect interim proprietor, it ſeemed very juſt to give him the right of voting, if the lands were of ſufficient extent or valuation; and if ſuch wadſets were now in uſe, I ſhould not object to their ſtill having this right annexed to them. But it is a fact notorious to all Scotland, that, for half a century paſt, there has ſcarcely been one inſtance of a proper wadſet conſtituted in the way of ſecurity for money, or for any other purpoſe than to create *fictitious votes*; and it is not much more than 20 years ſince the firſt attempts were made

made to create votes in this way. The very manner of their creation affords the cleareſt proof that a ſecurity for money is not intended, for care is always taken, in the firſt place, to ſeparate the property from the ſuperiority of the lands, and to wadſet only the *naked ſuperiority*; a thing which yields no rent or revenue of any kind, except an eluſory feu-duty of perhaps a penny Scots *per annum*; and no man of common ſenſe will pretend that any other thing is meant by ſuch a tranſaction than to create a fictitious vote.

The cutting off ſuch wadſet-votes is no alteration of the antient law, or eſtabliſhed conſtitution, but the reverſe. Our ſtatutes do expreſsly condemn *nominal* votes, and in ſo doing they condemn all votes upon wadſets, *as they are now practiſed*; for I will venture to affirm, that there is not one wadſet-vote upon any roll in Scotland but is as rank a nominal and fictitious vote as can be framed.

As to *liferents*, it will be obſerved, that, by the propoſed bill, the right of voting is not meant to be taken from ſuch liferenters as actually poſſeſs the lands, by having the *property* in them during their lives. It only cuts off liferent-votes upon *ſuperiority* ſeparated from property;

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and, even in that caſe, makes an exception of the huſband's right by the courteſy; ſo that this act can have no effect againſt true and real liferenters, who have the right in them by family-ſettlements, or other fair tranſactions, independent of the practice of vote-making. A father ſometimes diveſts himſelf of the fee of his eſtate in an eldeſt ſon's contract of marriage; but then he reſerves the *property* during his life; and in ſuch caſe his vote is not hurt by the preſent bill. I believe it will be difficult to find an inſtance of a liferent of bare ſuperiority being reſerved or conſtituted in family-ſettlements, or in any other ſort of tranſaction than that of making votes; for it is plain that ſuch a liferent is a mere ſhadow, not of any intrinſic value, and therefore never made or thought of for any other purpoſe than that of voting; or if, by accident, an inſtance to the contrary were found, the impoſſibility of diſtinguiſhing the real from the fictitious kind would make it neceſſary that there ſhould be no diſtinction in the propoſed act, otherwiſe the law would be again as much evaded as ever. The moſt common method *now* of making fictitious votes, is in the way of liferent, becauſe attended with leſs expence, owing to the ingenious diſcovery

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above mentioned; and therefore we do nothing at all, unleſs we inſiſt to cut off, by the lump, all liferent-votes of ſuperiority ſeparated from property. This is no alteration of the law; becauſe every one who reads the act 1681, and who inquires into the progreſs of the law, muſt be ſatisfied that the liferents there meant were not ſuch as are now practiſed in the art of vote-making: And further, we ought to conſider, that, when we only cut off the liferenter, and ſtill allow the right of voting to the *fiar*, even of a naked ſuperiority, we leave the eſtate in poſſeſſion of a vote. The liferenter and fiar have two ſeparate intereſts in *one* eſtate, but which cannot give both of them a right of voting at one and the ſame time. This was provided againſt by the act 1681 itſelf; ſo that the only effect of this part of the bill is to reſtrict the right of voting to the perſon who has the moſt ſubſtantia intereſt, viz. the fiar.

Every impartial man muſt be ſatisfied that the bill in queſtion does not hurt any one real and fair voter in the kingdom; that it does not diminiſh the number of real votes, but has the contrary effect, by extinguiſhing the nominal votes, and of courſe giving exertion to the real ones.

It will only cut off thoſe who were never meant to be upon the roll, and who have been placed there, by very unfair devices, againſt the ſpirit and intention of the whole election-laws.

I have heard it gravely advanced as an argument againſt the bill, that it would be a ſtrong meaſure to *disfranchiſe* ſuch a number of people ſtanding upon the rolls, who are preſently underſtood to be unchallengeable before the courts of law. Strong to disfranchiſe whom? a parcel of phantoms! How came they ever to be enfranchiſed? The argument ſuppoſes them to be good legal voters, which I abſolutely deny. They derive their aërial beings, not from the law as it now ſtands, or ever ſtood, but from a *perverſion* of the law. It is ludicrous to talk of disfranchiſing thoſe who are notoriouſly known to be mere proxies, who conſider themſelves as ſuch, not receiving a ſubſtantial *right* on their own account, but conferring a great *favour* upon the perſon for whoſe behoof they act. The ſtatute 16. of the late King at once cut down all votes upon retours ſince the 1681. This was going farther than the preſent bill, which only rectifies a *recent* practice, reprobated by the ſenſe of the country, unwarranted in the opinions of lawyers, expreſsly

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diſſallowed by the judgments of the law here, and deriving its whole authority from a *miſconſtruction* of ſome judgments of the Houſe of Lords; for it could not poſſibly be meant by that moſt honourable Houſe to give a ſanction to nominal and fictitious votes.

Another argument uſed is, that a man of large eſtate having more intereſt in the land-tax, than a man of ſmall eſtate, ought to have more votes in the election of the county-member. I muſt own, Gentlemen, this appears to me a very ſingular conceit. By the ſame argument, every brewer who contributes to the duty of exciſe, every trader, and every mechanic, on account of the intereſt he has in taxes, may put in his claim to a much larger ſhare in the repreſentation; every proprietor of land, holding of a ſubject may, by the ſame rule, and with better reaſon, complain of being excluded; for it is generally the proprietor, and not the ſuperior, that pays the land-tax. But, in reality, a man of large eſtate does not pay a greater proportion of land-tax, compared to the rental and value of his lands, than a man of ſmaller property; and, when we conſider that the minimum, which has been fixed for the right of voting, is L. 400 Scots of valued rent, or 40 ſhillings of old extent, both

of which are pretty conſiderable eſtates, we need be under no apprehenſion, that real freeholders, poſſeſſed of ſuch an eſtate, will be diſpoſed to give up any point as to the land-tax, merely becauſe other men may have greater eſtates. For example, let us take a dozen of land holders in any county of Scotland, of whom one half poſſeſs eſtates of L. 500 ſterling *per annum* each, the other have three or four times that rent; have we any reaſon, from experience, to think that the latter will be better citizens, or more attached to the laws of their country, than the former; that, in general, they will not all have an equal regard to the ſubſiſtence and welfare of that ſociety under which they live, the ſame intereſt in taxes, and all other public buſineſs, or that the gentlemen of moderate fortunes are in greater danger of being bribed, than thoſe whoſe rents may be higher, but whoſe expence will in proportion be greater?

We are next told, that this bill is againſt the *intereſt* of the *Peers*, and will be oppoſed by them in one of the houſes of parliament. Be it ſo, Gentlemen. What then? Is this a reaſon why you ſhould tamely give up your rights, without the leaſt ſtruggle or effort to preſerve them? Is the *right* of the freeholders, founded on the conſtitutional

ſtitutional laws of the kingdom, to be ſacrificed to the *intereſt* of any other body of men? At the ſame time, I cannot help thinking that there is ſome miſtake in the propoſition thus aſſumed, and that thoſe who hold ſuch a language have not duly conſidered the real intereſt of the nobility of Scotland, and of the moſt reſpectable families in it.

That this bill may be againſt the intereſt of ſome individuals who have no other ſort of political intereſt or weight in the country, than that which ariſes from the mere operation of making votes, who muſt uſe their eſtates as an engine to create a falſe unconſtitutional intereſt, having no other materials to work with; that there are ſuch men in the country, both lords and commoners, and that thoſe men will do what they can againſt the bill, is extremely probable; though I ſcarce think they will have the boldneſs to appear openly and avowedly in oppoſition to it. But, whatever ſuch men may do, the caſe muſt ſurely be very different with regard to thoſe who have other and more honeſt methods of acquiring and maintaining that political weight in the country, which their elevated ſituations entitle them to have.

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Such of them as enjoy their eſtates under the fetters of ſtrict entails, will do well to conſider, that they ſtand upon a very different footing from thoſe who hold their eſtates in fee ſimple. We all know, that ſome of the moſt antient and reſpectable families in the kingdom are in that ſituation; and that every nabob or founder of a new family muſt be in a different ſituation, until he chuſes to make an entail, in which he may inſert ſuch clauſes and conditions as he pleaſes; and, in time coming, if the preſent bill does not paſs, it is to be preſumed, care will be taken to inſert, in every *new entail*, an expreſs clauſe allowing liferent and wadſet votes. I am informed, there was a late caſe before the court of ſeſſion, where a gentleman of conſiderable eſtate, and of as reſpectable a family as any in the country, attempted to make a few votes upon his entailed property; but a remote heir of entail who happened to be on the other ſide of the queſtion, immediately challenged his votes, and ſet them aſide, though numberleſs votes of the ſame kind were made at the ſame time in all the counties of Scotland, by gentlemen not better entitled, but who had their eſtates more at command. This is a mortifying circumſtance, and which muſt operate to the prejudice

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of ſome of the nobleſt and beſt families in the country, who, if they cannot break their entails, muſt ſurely of all men be the moſt forward to promote the preſent bill, as, without it, their intereſt can no longer exiſt, and they muſt be trampled upon by every upſtart.

Some of them, it is true, have ſuperiorities, upon which, by playing faſt and looſe with the *ward-act*, they may make votes without contravention of their entails. But this, I ſuſpect, will not go far, unleſs we alſo allow frauds againſt the tailzie-act 1685. Indeed, if we once break in upon the ſtatute-book, I do not ſee why one act of parliament ſhould be more ſacred than another. It has generally been thought, that the tailzie-act was leſs entitled to favour than moſt others. Let us not then ſtick at trifles. Tailzie-act, ward-act, election-acts; let them all go together. Let us have an entire new code of laws, ſuch as our vote-makers ſhall be graciouſly pleaſed to give us.

But, ſuppoſe theſe gentlemen under no difficulty from their entails, obſerve what the conſequences to themſelves will be, of their making votes. I grant you, the operation is very eaſy, if we look no further than the execution; and

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people are apt to think it very convenient, who only conſider the preſent job. But, in the *firſt* place, until they obtain the liberty of *ſelf-voting* for their whole qualifications, they muſt employ counterfeit voters; and theſe meagre gentlemen muſt be well uſed, and muſt have countenance and favour ſhewn them for the ſervices which they perform. *2dly*, If votes are to be made upon entailed ſuperiorities, another claſs of men muſt be dealt with, viz. the vaſſals, who muſt be courted and gained by the vote-maker; for, without them, not one ſtep can be taken; and all this to ſave him the trouble of being civil to the real freeholders. This is a little hard. The real freeholders are left out altogether: Vaſſals, and nominal vote-holders, are brought in. What advantage does this give to the vote-maker? Clearly no fair advantage. The object in view is, that the perſon who makes the votes may be independent of all civility, attention, or intercourſe of habits, with gentlemen of more moderate property in the country. Now, I would beg leave to put it home to their minds, whether, upon cool reflexion, they would rather wiſh to lie under a political obligation to a few gentlemen in their neighbourhood, for which no other return

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than a little diſcretion is required, or, in place thereof, would chuſe to lay themſelves under the neceſſity of employing a tribe of needy retainers, who expect gratifications of another kind, *Impenſis coenarum, et tritae munere veſtis ?*

Further, I have heard lawyers ſay, that votes cannot well be made, without being introductory of many evils with reſpect to the rights of lands. If we could have ſuperiors without vaſſals, our paper-votes would be attended with leſs harm; but, unfortunately, the *dominium utile*, or property, which is in the vaſſal, hinges upon the *dominium directum*, which is in the ſuperior. The vaſſal's heir muſt have an entry, otherwiſe his titles are incomplete; he is no more than an apparent heir, and cannot ſo much as make a ſettlement of his ſucceſſion, or grant a bond of proviſion to a younger child. A ſingular ſucceſſor, too, or an adjudger, muſt have a charter, otherwiſe his right will only be perſonal. The whole land-property of the kingdom, the intereſt and ſafety of creditors, the ſecurity and quiet of the ſubjects of this country in their moſt valuable rights, will be materially affected, if we loſe ſight of the connexion between ſuperior and vaſſal, and if feudal titles cannot with eaſe be completed in the known legal and accuſtomed modes. Now, I ſhall ſuppoſe

that ſome of our nominal ſuperiors happen to go to America, or to other parts of the globe, and it is not known whether they are dead or alive, How are heirs or creditors, or ſingular ſucceſſors in the property, to make up their titles? It will be ſaid, that, if they cannot get an entry from the immediate ſuperior, after charging him with horning, they may go to the crown. But this is at beſt a violent remedy, which is never eligible, and the practicability of it may be doubted, in the caſe where it is uncertain who is ſuperior.

If the vote be of the wadſet-kind, it will not be eaſy to redeem the wadſet. The form of redemption is at any rate attended with difficulty; but, if it be a matter of doubt whether the wadfetter is in life or not, whether he has left a ſon, or who is his next heir, the difficulties will be much increaſed. If he be a liferenter, and has gone to ſome diſtant clime, which may often be the caſe with thoſe light-footed gentlemen, I ſuppoſe we muſt wait patiently till the legal preſumption of death ſhall take place, at the end of a hundred years from his nativity. If it ſhould be neceſſary, in the mean time, to ſell the lands, to make up titles to them, to exchange or make any tranſaction concerning them, How are matters to be managed?

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If a queſtion ſhould ariſe about any of thoſe rights which depend on the valued rent, is it underſtood that the right is in the nominal voter, or in his conſtituent? A man who is a good voter ought of courſe to be qualified for being a juſtice of peace, a commiſſioner of ſupply, a truſtee upon roads, and to have privileges, juriſdictions, and powers of various kinds, which the law of Scotland confers upon the land-holders of this country. I ſhould be glad to know whether he is alſo ſubject to the burdens attending the valued rent, ſuch as building the pariſh-church, paying the ſchool-maſter, &c. In practice, we do not find that theſe nominal gentry take much *burden* upon them.

Allow me to put another queſtion. It has generally been ſuppoſed, (whether juſtly or not, I cannot ſay,) that the act 1685, giving the excluſive privilege of hunting to L. 1000 Scots of valued rent, is at this day the law of Scotland. Quaeritur, Suppoſe a man not worth a groat is employed as a nominal voter in three different counties, whereby, *ex facie*, he has L. 1200 of valuation, Is he at liberty to go through every man's grounds at pleaſure, and kill all his game?

I have

I have been told, that the multiplication of infeftments ſince vote-making grew to a height, has been ſuch, as to make it much more troubleſome and expenſive to ſearch the regiſter of ſeiſines than it was before; and that in time this will become an intolerable grievance; ſo that the boaſted ſecurity of our records will in all probability be ſoon at an end. I take it to be a matter of doubt whether the regiſter-houſe now building at the expence of government will be ſufficient, in half a century more, to hold the political ſeiſines.

The very increaſe of title deeds is an inconvenience which will be ſeverely felt. Formerly, a man held his eſtate by charter and ſeiſine, and his titles being ſimple and clear, were eaſily managed. But now, if he unhappily betake himſelf to vote-making, he muſt have titles within titles; truſt conveyances of the property to a friend, in order to make a ſeparation of it from the ſuperiority; re-conveyances in order to bring it back; infeftments upon both; diſpoſition of the ſuperiority to the intended voter; aſſignation to the unexecuted precept in the crown-charter; infeftment in the voter; when the job is done, it may be prudent to get back the ſuperiority, and to

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reſtore matters to where they were, and then a troubleſome operation of *reconſolidating* enſues. In place of one ſimple inveſtiture, many writings become neceſſary, and a variety of forms muſt be uſed. When titles and forms are multiplied, flaws and objections will be more frequent, and theſe may prove fatal to the intereſts of many innocent perſons.

Theſe diſadvantages ſeem greatly to overbalance any little paltry benefit which our great men can derive from the practiſe of making votes. Beſides, did they not hold their due ſhare of influence in elections before any ſuch thing was known or thought of? Muſt not every man of high rank and of great eſtate, who acts as he ought to do, be more or leſs poſſeſſed of ſuch an influence, which he can eaſily preſerve by common civility to thoſe connected with him, and to the gentlemen around where he lives? Some, of the firſt claſs of our nobility, are known to have extenſive perſonal and family connections; ſome of them ſtand high in the eſtimation of the country; all of them have opportunities of doing great good. It is in this manner, and through theſe channels, that they ought to hope for ſecuring a political intereſt. They will be reduced

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low indeed, if they muſt have recourſe to the *machinery* of an eſtate, in order to ſupply the want of that natural and fair influence which their own merit, and the attachment of others ought to produce.

Do any of our great men wiſh to lay aſide all general influence ariſing from birth, rank, fortune, and eminent ſituation in the ſtate? To reject even the advantages of hereditary and family attachment, to ſay nothing of perſonal intereſt? Do they mean to teach their ſons, that it is unneceſſary for them to viſit Scotland once in ſeven years? Is it their deſire that their families ſhould become aliens to their country, unconcerned in its affairs, and to be held as of no conſequence in any public deliberation, or in any general meaſure regarding Scotland? Is it their ſole ambition to make the whole, or the half, or the fraction, of a Scots member of parliament, by means of an eſtate, in oppoſition to the wills, and in defiance of the rights of the legal voters? If there are men who think in this way, and whoſe only object is to *manufacture* a member of parliament, as if they were turning him in a loom, they ought by all means to oppoſe the preſent

ſent bill; for, I muſt acknowledge, that it is very ill ſuited to their views.

The practice of vote-making will go far to extinguiſh every honourable ſentiment in the country; it will reduce our great men to a *level* with thoſe who may not be *great*, though they have good eſtates. It muſt introduce the very worſt kind of ariſtocracy in elections, or rather oligarchy, by putting us under total ſubjection to a few men who have no tie upon them to pay the leaſt regard to us, or to merit well of their country.

Where ſhall we be at the next election, when we ſee how things are going on at this very Michaelmas? The liſts of claimants are publiſhed in the news-papers. In the ſingle county of Lanark, no leſs than 91. And, when we come to examine who they are, and to put the uſual queſtion, *who made them*, we receive for anſwer, that of the 91, no leſs than 89 are fictitious! I ſhall not ſay by whom made. This is too outrageous an abuſe to be longer ſuffered.

In a word, Gentlemen, the matter has become very ſerious to you, and to the country; your exiſtence as freeholders, and even as *free-men*, depends upon the ſucceſs of the bill now propoſed. I hope we have ſome remains of feeling left, and

that

that we ſhall embrace this opportunity of ſupporting a meaſure, by which alone we can ever expect to be reſcued from diſgrace.

I have the honour to be, Gentlemen, one of your own number.

C. D.

Aberdeenſhire,
Sept. 1. 1775.